

AFFARS REPLACEMENT PAGES

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AIR FORCE FEDERAL ACQUISITION REGULATION SUPPLEMENT (AFFARS)

1996 EDITION

FOREWORD

The Air Force Federal Acquisition Regulation Supplement (AFFARS) to the Federal Acquisition Regulation (FAR) and the Department of Defense (DOD) FAR Supplement (DFARS) is issued under statutory authority of the Secretary of Defense and by Order of the Secretary of the Air Force.

This edition of the AFFARS replaces the AFFARS dated 01 Jan 1992. The new edition incorporates changes published in Air Force Acquisition Circulars (AFACs) through AFAC 92-51. No further changes will be issued to the 1992 edition of the AFFARS.

The FAR, DFARS, and AFFARS contain information for contracting personnel to award and administer Air Force contracts. The AFFARS contains information that implements the FAR and DFARS and also contains supplementary information that is unique to the Department of the Air Force. This Supplement is not a stand-alone document and must be read in conjunction with the FAR and DFARS. Requests for copies of the AFFARS should be made through normal distribution sources or to the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325, (202) 512-1800.

Throughout the AFFARS, there are requirements to send documentation to SAF/AQC. The mailing address for SAF/AQC and its divisions is:

SAF/AQC[*insert division one-letter designator, if applicable*]
1060 Air Force Pentagon
Washington, DC 20330-1060

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PART 5333—PROTESTS, DISPUTES, AND APPEALS

has been previously submitted to SAF/AQCX or SAF/AQCX has agreed to alternate arrangements. If the contracting officer does not request continued performance authority, contract performance shall cease immediately. If a request is initiated and the HCA does not authorize continued performance within five calendar days of protest notification, the contracting officer shall suspend contract performance. If circumstances change after suspension of contract performance, the contracting officer may initiate a request to continue performance. MAJCOM, as referred to in this paragraph, excludes AFMC if the request involves a Major, Selected, or Other Program.

(3) When authorizing continued contract performance, the HCA must first send a notice to the GAO of the finding (but not necessarily the finding itself), then sign and return the finding to the contracting officer. Forward the notice to the GAO and a copy to SAF/AQCX.

(e) *Hearings.*

(1) SAF/GCQ will represent the Air Force on any protest involving a hearing. When appropriate, the local staff judge advocate who prepared the memorandum of law will assist SAF/GCQ at the hearing.

(2) The contracting activity, local staff judge advocate, and responsible MAJCOM shall provide the requested witnesses and other support required by SAF/GCQ. SAF/GCQ will submit Air Force comments on the hearing to GAO. The contracting officer shall produce additional information, as necessary, for SAF/GCQ to provide comments.

(g) *Notice to GAO.*

For Other Contracting, the HCA shall advise SAF/AQCX in writing with any recommendation not to comply with a GAO decision within 30 calendar days of the date of the decision.

5333.105-90 RESERVED

SUBPART 5333.2—DISPUTES AND APPEALS

5333.207 Contractor certification.

If a contractor submits an uncertified claim exceeding \$100,000, the contracting officer shall notify the contractor, in writing, of its failure to certify as required by the Contract Disputes Act (41 U.S.C. 601-613). The notice should state that a final decision will not be issued until the claim is certified.

5333.211 Contracting officer's decision.

(a) Except as provided in 5333.211 (b), the contracting officer shall refer proposed final decisions, with a complete contract file, to AFMC LO/JAB, 2240 B Street, Room C1, Wright-Patterson AFB, OH 45433-7112, (513) 255-6111 ext. 252, (513) 255-3204, DSN 785-6111 ext. 252, or DSN 785-3204, for review before sending the decision to the contractor.

(b) Final decisions on claims of \$100,000 or less, and on terminations for default with estimated excess procurement costs of \$100,000 or less, do not require AFMC LO/JAB review, provided the local staff judge advocate has reviewed and concurred with the final decision. However, any proposed final decision, regardless of dollar value, may be sent to AFMC LO/JAB for review if either the contracting officer or the local staff judge advocate determines that AFMC LO/JAB review is desirable.

(c) Telephone coordination of final decisions with AFMC LO/JAB is permitted when there is a genuine need for expedited review and when the case is simple, non-controversial, and unlikely to be appealed. Both the contracting officer and the local staff judge advocate should be on the line to discuss the case with AFMC LO/JAB.

5333.290 Appeals.

(a) *Appeals to the Armed Services Board of Contract Appeals (ASBCA).*

(1) The staff judge advocate, HQ AFMC, represents the Air Force before the ASBCA and has delegated this authority to the Director of Contract Appeals, Air Force Materiel Command Contract Law Center (AFMC LO/JAB). Contracting officers shall send a copy of any notice of an appeal to the ASBCA to AFMC LO/JAB with the envelope

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tice was received. If the contractor files an appeal with the contracting officer instead of the ASBCA, the contracting officer shall immediately note the date on which the appeal was received and forward the appeal to the ASBCA along with the envelope in which the appeal was sent, and copies of both shall be sent to AFMC LO/JAB.

(2) Upon learning of an appeal to the ASBCA, the contracting officer shall comply with Rule 4 of the ASBCA Rules (see DFARS Appendix A, Part 2). In assembling the file of documents under Rule 4 (i.e., Rule 4 file), the contracting officer shall not include any legal opinions or intragovernmental or intergovernmental documents of the types described in AFI 37-131, Freedom of Information Act; AFI 37-132, Privacy Act; and DFARS Subpart 224.2 without having first obtained concurrence of AFMC LO/JAB. The contracting officer shall transmit any questions concerning whether or not a particular document should be included in the Rule 4 file to AFMC LO/JAB for resolution prior to completing and forwarding the Rule 4 file. In assembling the Rule 4 file, the contracting officer shall separately tab and index each document. Prior to forwarding the Rule 4 file to the ASBCA (Recorder), the contractor, and AFMC LO/JAB, the contracting officer shall submit the file to the local staff judge advocate for review and approval to ensure completeness and to prevent accidental disclosure of privileged material. Thereafter, all three copies may be mailed concurrently. Contractors or their representatives shall not be given access to Government files or documents, other than the Rule 4 file, without specific approval of the assigned Air Force trial attorney.

(3) While an appeal is pending, the contracting officer shall render all assistance requested by the assigned Air Force trial attorney including, but not limited to, locating and arranging for the presence of all potential Government witnesses, and marshaling Government records and other required physical evidence for conferences and hearings necessary to defend or otherwise dispose of an appeal.

(b) Actions in the United States Claims Court. If the contracting officer receives notice that an action has been filed in the United States Claims Court, the contracting officer shall notify the local staff judge advocate. The contracting officer shall assist the staff judge advocate in preparing the litigation report. The contracting officer shall send AFMC LO/JAB a copy of all notices of appeal to the United States Claims Court. Thereafter, the contracting officer shall give assistance as requested by HQ USAF/JACL.

PART 5339 - RESERVED

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